

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

ORDER

SB CIVIL WRIT PETITION NO.4028/1994
Resident Engineer, Rajasthan State Bridge Corporation
Ltd., Unit No.5, Jaipur
V/s
Bhagwan Mali & anr.

Date of Order : : 19.10.2006

PRESENT
HON'BLE MR. JUSTICE P.S. ASOPA

Dr.P.C. Jain with
Mr.G.C. Saini, for the petitioner.
Mr.M.F. Baig, for the respondents.

By the instant writ petition, the petitioner has challenged the Labour Court award dated 6.11.1993 whereby the respondent No.1 (now deceased represented by his wife Manbhari Bai) was reinstated in service with full back wages.

The case of the respondent No.1 was that he was appointed in October, 1981 on Rs.18 daily wages on the post of Wireman and a notice for termination of service was received by him on 22.12.1983. It is further stated by the respondent No.1 that he had worked more than 240 days in the last preceding calender year, but compensation was not given to him.

The petitioner has stated in the writ petition that the respondent No.1 was appointed in the month

of December, 1982 against the post of Wireman and his services were terminated on 23.1.1984.

The Labour Court after consideration of the evidence before it, has come to the conclusion that even if December, 1982 is to be taken as the date of appointment then by 23.1.1984, the respondent No.1 workman had completed 240 days in the service. As regard the post of Wireman, the Labour Court has further given the finding that the post of Wireman is equivalent to the Helper Electrician. On being found that impugned termination is violative of Section 25-F of the Industrial Disputes Act, the Labour Court has reinstated the workman with full back wages.

Counsel for the petitioner has submitted that the Labour Court has committed error in reinstating the workman with full back wages on the ground that the work is continuing. Counsel for the petitioner has also submitted that finding of completion of 240 days is also wrong.

The fact of death of respondent No.1 - workman is not in dispute. However, counsel for the respondent - workman has submitted that he was reinstated on 1.12.1995 and thereafter from 1.11.1996, the petitioner Corporation stopped assigning him the work, but the surviving question in this particular case is only with regard to

violation of Section 25-F and the back wages from 22.12.1983 to 6.11.1993.

I have considered the award of the Labour Court. In my view, the Labour Court has not committed any error in counting 240 days in the last preceding one year from the date of termination i.e. 23.1.1984, even as per the submission of the petitioner taking into consideration respondent's appointment in October, 1982. From the record of the Labour Court as well as of this writ petition, there is no proof of payment of retrenchment compensation. Therefore, the award of the Labour Court is just, proper and legal. However, in view of the aforesaid fact, the same is modified to the extent that the legal representative Smt. Manbhari Bai of respondent No.1 will only be entitled to Rs.25,000/- towards back wages from the date of termination to the date of reinstatement.

Accordingly, the writ petition is disposed of.

(P.S. ASOPA) J.

ummed/-